

98-84397-2

Prendergast, William
Ambrose

Addresses delivered by
William A. Prendergast...

[n.p.]

[1921?]

98-84397-2

MASTER NEGATIVE #

COLUMBIA UNIVERSITY LIBRARIES
PRESERVATION DIVISION

BIBLIOGRAPHIC MICROFORM TARGET

ORIGINAL MATERIAL AS FILMED - EXISTING BIBLIOGRAPHIC RECORD

308
Z
Box 111 Prendergast, William Ambrose, 1867-1954.
Addresses delivered by William A. Prendergast of
Brooklyn, N. Y. at a joint public hearing before
Senate committee on public service and Assembly
committee on judiciary held in the Assembly
chamber, Albany, New York, Wednesday, March 2,
1921, on the Knight-Adler public service commission
bill... on invitation of the board of governors
of the Lawyers club... New York city, Saturday
March 12, 1921 on "Our city's financial problem."
cover-title, 31p 23 cm.

Only Ed.

RESTRICTIONS ON USE: Reproductions may not be made without permission from Columbia University Libraries.

TECHNICAL MICROFORM DATA

FILM SIZE: 35mmREDUCTION RATIO: 12:1IMAGE PLACEMENT: 1A (11A) 1B 11BDATE FILMED: 4-8-98INITIALS: pbTRACKING #: 22215

FILMED BY PRESERVATION RESOURCES, BETHLEHEM, PA.

Gift of the President

ADDRESSES DELIVERED BY
WILLIAM A. PRENDERGAST
OF BROOKLYN, N. Y.

268

Z

Library

At a Joint Public Hearing before
SENATE COMMITTEE ON PUBLIC SERVICE
and
ASSEMBLY COMMITTEE ON JUDICIARY
held in the Assembly Chamber, Albany, New York
Wednesday, March 2, 1921
on the
KNIGHT-ADLER PUBLIC SERVICE COMMISSION BILL
Senate Print 450 Assembly Print 729

ON INVITATION OF THE
BOARD OF GOVERNORS OF
THE LAWYERS CLUB

ONE HUNDRED AND FIFTEEN BROADWAY
NEW YORK CITY

SATURDAY, MARCH 12, 1921

ON

"OUR CITY'S FINANCIAL PROBLEM"

At a Joint Public Hearing before
SENATE COMMITTEE ON PUBLIC SERVICE
and
ASSEMBLY COMMITTEE ON JUDICIARY
held in the Assembly Chamber, Albany, New York
WEDNESDAY, MARCH 2, 1921
on the
KNIGHT-ADLER
PUBLIC SERVICE COMMISSION BILL

Senate Print No. 450 Assembly Print No. 729

HON. JOHN KNIGHT
Chairman of the Senate Committee on Public Service
Presiding

ALFRED E. MARLING, Esq., of New York acted as Chairman of the delegation from New York City, which appeared in favor of Governor Miller's transit proposals incorporated in the Knight-Adler Bill.

ALFRED E. MARLING, Esq.:

I now call upon the Honorable William A. Prendergast to open the addresses in favor of this bill.

HON. WILLIAM A. PRENDERGAST:

MR. CHAIRMAN AND GENTLEMEN OF THE COMMITTEE:

At the outset may I, on behalf of those who appear in support of this measure, extend to our distinguished visitor, Senator Johnson of California, our very cordial felicitations; thank him for his appearance here, and congratulate him on the presentation he has made of his case which, we desire to say, we have found both interesting and illuminating from his point of view.

During the latter part of the discussion which has just closed there have been two remarkable appeals made to members of the Legislature; one from a judge of the Supreme Court of the State of New York, and another from a gentleman who I believe appears as a citizen of New York. I wish to make only a passing reference to them. It has been suggested that if members of this Legislature did not vote against this measure they were incurring political death. That may be, or it may not be, according to the judgment of the gentleman who uttered that sentiment, a perfectly permissible argument to use in a case before the Legislature of the State of New York, but to the members of the Legislature who are here to-day may I, from the spirit of the past, from the utterances of one of the greatest men who has ever figured in American history, who occupied three times a place upon the floor of this Assembly, may I read this statement: "I would rather go out of politics feeling I had done what was right than stay in with the approval of all men, knowing in my heart that I had acted as I ought not to do." That was the statement made by Theodore Roosevelt when he voted against overriding the veto of Grover Cleveland in the Manhattan elevated fare case. (Applause.)

Mr. Chairman, may I impose upon your patience while I explain the attitude of those who appear here to-day on behalf of the Citizens' Transit Committee. It is not wholly a matter of the construction of this bill. We believe if there are any provisions in the bill that are not strictly in accordance with the public interest, those provisions should be amended properly or withdrawn. The proponents of this measure ask nothing in the furtherance of the settlement of the transit question except what will conserve and advance the public interests. But there is a tremendous proposition before the people of the City of New York. It is not of immediate occurrence. It is something that has been going on for several years. It is something that was foreshadowed before the present City Administration went into office.

We have a great transit system in New York. It represents a vast investment. It represents something to the economic life of the city, without which that life could not be sustained. May I remind those who are here to-day of the last strike upon the Interborough system in the month of August, 1919? I believe there has been no interruption of traffic in the City of New York that showed so completely how closely knit to the economic and industrial life of the City our transit systems are. It is for the reason that it is a great economic and social question, because it is a question that involves large property interests which cannot be impaired, except to the impairment of the industrial life of the City, that we believe some solution for the present difficulties should be discovered.

I am informed by the report of the Public Service Commission, just rendered, that the capitalization and bond issues of the transit companies of New York at the present time represent something like nine hundred and twenty millions of dollars. It will not answer to simply discard this statement by saying, "Well, they have had all that was coming to them; they have had great dividends." I will come to that feature later. It will not answer to say that we have no interest in this investment. If you take no interest in the investment and that investment is impaired, such impairment will have its effect upon the financial interests of the entire country. This is a great question. It cannot be judged, it cannot be determined, according to any preconceived ideas of politics or government. It must

be judged according to what will prove to be for the best interests of the municipality of which we are citizens.

So this is the problem that is before us, to preserve for the benefit of the City these great properties. These properties were created, it is true, for the purpose of making money. At the same time we should not forget that the rights conferred upon these companies have been conferred because the people desired that those rights be exercised in their interest. If it shall appear that those rights have not been exercised in the interest of the people, it will be possible, through this bill, to correct any dereliction that may have taken place, and that, Mr. Chairman, is one of the principal purposes of the measure.

It has been said both here and in printed statement during the last week that the surface railroads of the City no longer form a very important element of our transit system. Why sir, during the last year, even with the semi-paralysis that has fallen upon the operations of the surface railroads, there was an increase in the carrying capacity. The number of passengers carried upon the surface railroads of the City exceeded by 64,000,000 the number carried during the preceding year. So you will see that while there may be some few surface railroads that are obsolete, it does not follow that for a long time to come surface railroad operation can be entirely suspended. It seems to me that the effective way in which to make the surface lines useful to the community is to so tie them in under an adequate plan with our other transit facilities that they can be made to yield a maximum of service to the community.

We have been passing through a period for which there is no parallel in the history of the world. It follows as a matter of course that our affairs in this City of Albany, in the City of New York, in every community, have been affected by the condition of the people of every other part of the world. This condition of affairs has affected the transit situation in New York City. I think it can be shown without very much calculation that the strikes that have taken place upon the B. R. T. and Interborough systems during the last two or three years have imposed upon these systems an expense of more than Five Million Dollars to take care of the strikes alone. In addition there has been, and properly, a considerable advance in the wages paid to the employees of the companies. The employees have

not received all they asked for, but there have been substantial advances made. In the cost of commodities no one will attempt to question that there has been a great new burden imposed upon the companies. It is for these reasons and other general reasons growing out of the great war, that these organizations find themselves in a position to-day where they cannot carry on their business at a profit.

It is charged, and with truth, that there has been mismanagement. There has been extravagance, and there has been favoritism in the conduct of the affairs of these companies. That statement is not disputed, but Mr. Chairman and gentlemen of the Committee, the time has arrived when we should endeavor to wipe out these conditions; and that, again let me say, is one of the great purposes of this measure.

We are told that dividends to the extent of 187 per cent. have been paid by the Interborough Company. That is true, and I agree with those who have criticised the conduct of that Company. Under a rehabilitation or a settlement of the affairs of these companies, those who have received dividends to which they may not have been entitled will have to make amends in a readjustment of the stock and bond issues of these corporations, which will reduce them to figures representing the tangible value of those properties. In that way these unfair payments can be successfully disposed of.

Mr. Chairman, what is the general situation in which these companies find themselves? Up to the 30th day of last June they had a deficit of \$10,000,000. That is a deficit which represented the operation of all the transit systems in the City of New York. It is claimed by the Public Service Commissioner of the City of New York that the deferred depreciation which should have been provided for amounts to \$10,000,000 more. So that, you have the proposition of a deficit of \$10,000,000 on operation and a deficit of \$10,000,000 for deferred depreciation. I will not say anything at the present time of the fact that the City of New York is carrying in its budget, and must continue to carry, the cost of its investments in the subways. How can we disregard these plain figures? They are undisputed. They are before you. They are contained in the report of the Public Service Commission, which has been submitted to this Legislature. They suggest an argument that cannot be controverted.

They reveal a situation which must be met in some different way from that in which it has been met up to this time. (Applause.)

I have said that the present condition of the transit companies is not a matter of immediate development. You are aware that during the State campaign of 1918, Governor Smith called particular attention to the transit situation and promised that if he was elected he would make such suggestions to the Legislature as in his judgment would help us find some way out of the transit tangle and give us a better management of our transit systems. The Legislature of the State, although in both branches opposed to the Governor politically, acceded to his suggestion, and a new method of controlling the management of the transit companies in New York was found. A Public Service Commissioner was created to administer the regulatory functions, and a Transit Construction Commissioner appointed to have entire charge of transit construction in the City of New York under Contracts 1, 2, 3 and 4. In addition to what was suggested by Governor Smith in the early part of 1919, we know that the City Administration itself was not unalike to the emergency; because it is stated, and I assume with correctness, that during the latter part of 1918 his Honor Mayor Hylan had conferred with representatives of the Interborough Company and with representatives of transit interests in other cities, in the hope of finding some solution of the problems that he must have appreciated then, as he strongly appreciates now, were pressing upon the community. So that we know this transit question has been with us. It has been before us. It has been on all sides of us. It is a great problem that has been affecting the City now for some three or four years. Is it strange, then, that after this lapse of time, a suggestion should come that there be a change in the method of management, in the hope of finding some way out of our great difficulty?

Governor Smith, acting under the authority given him by the Legislature, appointed Mr. Lewis Nixon Public Service Commissioner. He appointed Mr. John H. Delaney Transit Construction Commissioner. It must be said for these officials that there is every evidence that they sought to bring about some kind of satisfactory composition of our transit difficulties. Commissioner Nixon in 1919 invited the Board of Estimate and Ap-

portionment to meet him and Commissioner Delaney and the representatives of all the railroads in conference. It is true, that invitation came at an inopportune time. It came at a time when the Board was engaged in the preparation of the annual budget, which constituted a perfectly proper reason for not taking whole-hearted part in those negotiations. In fact, it may be said some members of the Board of Estimate could not have given their time to this subject at that particular period. But the budget emergency passed and something could have been done. If you will refer to the report made by Commissioner Nixon to the Legislature on March 1st, 1920, you will find it stated in that report, that after conferences, repeated conferences, with the railroads, in which the members of the City government did not participate, but in which Commissioner Delaney did participate, Commissioner Nixon says: "The companies, however, made no proposal to the city along these lines." This referred to the plan of adjustment he had proposed. They did suggest to Commissioner Delaney the taking up of the matter with the municipal authorities, with a view to bringing the latter into a conference. This Commissioner Delaney did in a letter dated December 19th, 1919, addressed to the Board of Estimate and Apportionment. Commissioner Delaney closed his letter as follows:

"The Board of Estimate and Apportionment of 1912 and 1913"—this is Commissioner's Delaney's statement—"participated by a committee composed of three members in the making of the present Rapid Transit contracts. It is the recognized desire of all contracting parties that your honorable Board should proceed in the effort to redraft these contracts and I therefore request that a committee be appointed for that purpose and that the Corporation Counsel be authorized to assist the conferees."

That was Commissioner Delaney's invitation on behalf of this conference which had extended over a period of several months. In answer to that invitation the Board of Estimate and Apportionment instituted an investigation. It called before it, I am not sure whether under subpoena or not, the representatives of the different companies. The hearings in the matter of the Interborough Rapid Transit Company commenced January 13th and ended March 3rd, 1920. The day before yesterday there

was published a report prepared in the office of the Corporation Counsel regarding that investigation. Now I ask your committee to consider that report and ask yourselves whether you find in it the slightest suggestion of, the slightest clue to, any effort to bring about a readjustment of Contracts 3 and 4? I ask you to peruse its pages and see whether there is anything in it which suggests that the question of revising the contracts in the interest of the City, of leveling to a lower degree the preferential now enjoyed by the Interborough, was ever even discussed?

When the City comes here and asks you not to interfere with what it believes to be its right to pass upon this question, I think you have a right to ask them, "What, of a positive character, have you done to try and bring about a settlement of it?" (Applause) If it can be shown, Mr. Chairman, that, even despite this report, the City has made such an effort, and has made any progress and has any plan for modifying these contracts in what it believes to be the public interest, then I should say it was inexpedient to interfere with the progress of any such negotiations. But when there is no appearance of any such plan, no appearance of such negotiations, then may I suggest with all due respect to the City authorities that it is hardly in order to come here and say to you, "You have no right to interfere with us", at the same time confessing, as it is confessed in this printed document, that they have done nothing themselves to settle the problem. (Applause.)

Mr. Chairman, this is not the only disadvantage of the present situation. The traction situation is becoming more and more serious every day. The properties are becoming more impaired every day simply through the fact that the companies are not in receipt of sufficient revenue to keep them up to a proper standard. The Senator from California rightly said—with his sentiment there can and will be no disagreement—that people should be left to govern themselves; that there should be recognition of our right to have any kind of government in New York or any place else, that we choose; that it is the people's right to have such kind of government as they see fit. But something that no people ever intended its government should do, is to stand idly by while the traction interests of this City are being impaired and imperiled.

A VOICE: By whom?

MR. PRENDERGAST (Continuing): I need only say that I believe every speaker on the other side proceeded without the slightest interruption, and while there are some interruptions I might welcome and rather enjoy, I believe that the dignified character of the hearing should be preserved.

MR. PRENDERGAST:

And so, Mr. Chairman, we have brought you—I admit, tediously—up to the last governorship campaign. I have gone through a recital of this condition of affairs, not because it is the most attractive part of the argument that might be made upon this question, but I have done it in order to put it on the record, because it is this record that is a justification for Governor Miller's recommendations to the Legislature. (Applause.) I shall not review, else it be at the expense of the time of other speakers, the different provisions of this bill. You are familiar with them. Many of them have been referred to. There are some that are the subject of particular opposition. One was raised in one of the last addresses delivered here, the question of fare increases. It is charged that this bill is for the purpose of raising fares. This bill says nothing about fares except as to the right of the Transit Commission to regulate fares. It is the easiest thing in the world to charge that the bill means an increase in fare. I shall try to meet that argument fairly and squarely. There is one thing that the people of this country I think are pretty well used to, or were used to, until a few years ago, and that is a five cent fare. I have traveled in many cities throughout the land and when I would get into a street car—because I am a confirmed straphanger, it seemed the most natural thing in the world to offer the conductor a five cent piece, and he accepted it. It is not that way any more in many cities of the country. But we have the habit in New York and we like the habit. Every one likes it. Every one believes in it, if it is found to be, in the end, a proper thing. It is because the five cent fare was, I might say, a municipal heritage, tradition and belief of the City of New York, that we insisted upon putting it in the dual subway contracts. I am going so far as to say that I believe the inclusion of the five cent fare in the dual subway contracts was in a great measure the determining element in the popular approval that was given to those contracts at the time they were signed. (Applause.) But, Mr. Chair-

man and gentlemen, when the 1913 contracts were made there was no World War. When the 1913 contracts were made no one would have thought or did think of the World War. If any such occurrence had been anticipated the contracts could not have been made because the companies could not have borrowed the money on which to make the contracts. (Applause.)

So we find ourselves to a very great extent in a different world than we were in 1913. I have said I would try to meet these issues squarely, and I will. If a five cent fare can be preserved in New York, every man who appears here to-day, either by word of mouth or by presence in behalf of these bills believes in keeping the five cent fare. (Applause.) But the only way, Mr. Chairman, that you will ever determine whether the five cent fare can be preserved, is to have such a thorough investigation of the conditions of the companies as Governor Miller's bill provides; and then after the investigation it will be necessary to revamp those companies in such a way that they will not represent over-capitalization for watered securities. (Applause.) It is my belief, and I coincide with the writer of this report upon the investigation of the Board of Estimate and Apportionment, that there is water in those securities. If so, let us take the water out, and that is one of the Governor's suggestions. If, after taking the water out, and after securing such a modification of these contracts in the public interest as is desirable, it is then found that the companies can be sustained and the city sustained in its investment, upon a five cent fare, then we will continue to have a five cent fare. (Applause.)

Consequently, when people say that this means an eight cent fare, it does not mean anything of the kind. (Applause.)

But there is another feature of this problem referred to by a member of the Board of Estimate in a statement published on Monday morning. He suggests that there is really no necessity for worrying so much about the City being able to secure, from the operation of the roads, the carrying charges on its investment. He also said—and I desire to confirm the statement now—that it was not the idea when the contracts were made, that they would be *immediately self-sustaining*.

According to the latest figures that were prepared in January, 1913, before the contracts were signed, it was clearly shown that the B. R. T. System could not be made self-sustaining for

about eight or ten years, and the Interborough System for a very much longer period than that. It was intended to carry in the budget the necessary charges for interest and sinking fund. But, Mr. Chairman, let me remind you of this—those estimates were made upon the basis of approximate costs which, through the operation of these unusual economic and industrial conditions through which we have been passing, have been absolutely blown out of the window. So the burden upon the City is not just the burden that was anticipated in 1913, but is a very much greater burden. In view of this tremendous budget of \$345,000,000 for the year 1921, for which I want to say in a spirit of absolute candor, the City Administration is not entirely responsible (Applause) for any administration would have had to make an increased budget, it becomes more and more necessary that we find some way, because of the greater outlay due to our investments in these transit systems, to take care of the City's carrying charges. And that is the justification of Governor Miller's suggestion in his message and in subsequent statements, that the fare ought to be fixed at a rate to take care of the City's investment. Therefore, Mr. Chairman, without any desire to increase the fare, in the fervent hope that it will never have to be increased, I want to say that the fare paid must be a fare which represents an adequate return upon a proper capitalization of the companies and a sufficient return to take care of the City's obligations.

If it shall be found that that fare is in excess of five cents, and the plan evolved by the Commission is one that commends itself to public confidence, if it can be shown that through that plan a better service will be given to the people of the City, may I say to you and the other members of this Committee that I believe the people of the City of New York are prepared to pay for that character of service, and they are not wedded to any particular figure, if it should be conclusively proved to them that the present figure is an inadequate one. (Applause.)

The other important objection is the idea that Home Rule is being violated. On that subject I am somewhat at home. I have fought for Home Rule. I have taken occasion to criticize legislative enactments because they interfered with Home Rule. But, again may I say that those who come here pleading for Home Rule should come here with good Home Rule records?

(Applause.) If they do not, Mr. Chairman, then I am confident that their argument about Home Rule will be appraised at the rather low appraisal it deserves. (Applause.)

I intend to prove my point, and for that reason I shall go back into history that is not very ancient. I suppose you have heard that we have another problem in the City of New York, and it has been with us for a long, long time. It is called the West Side question. (Laughter.) No one who has any consciousness of the conditions there but believes some remedy should be found for that situation. Senator Saxe, who will speak a little later, when he was a member of the Senate, introduced a bill to try to settle that question, to get rid of Death Avenue, to compose the difficulties with the New York Central Railroad, to establish better terminal facilities, to endeavor to bring the City up to date—for it is 75 years behind the times on the West Side to-day. Nothing came of Senator Saxe's legislation.

Then there was another bill, and nothing came of that. In 1899 the Board of Aldermen tried to tear up the tracks, but the Courts interfered with that scheme. Then the first Public Service Commission was given authority to pass upon this question. The Legislature asked for a report and received one. The Commission was then asked for a plan, but, due, I am sure, to absorption in other problems, no plan was submitted, and the City authorities became impatient. Mr. Gaynor, who was Mayor at the time, said this thing ought to be settled and the City should settle it. So he sent a bill to Albany, which was passed. That bill gave the Board of Estimate and Apportionment power to settle this question, it put all the power in the City. It just stripped the Public Service Commission of power. I use that word "stripped" because you have heard it so often during the last week or so. (Applause.) The City proceeded to find a way. Then there arose a question regarding the validity of titles to real estate, and it took a year to settle that question satisfactorily. Then a plan to settle the West Side question was presented to the Board of Estimate and Apportionment.

I was largely responsible for that plan. I am not going to say whether it was the best plan or not. It was not perfect. Nothing is perfect, is it, Mr. Mayor? (Laughter and applause.)

But it was a plan. And what happened? Why, interests of different kinds, if I may disturb the delightful harmony of this meeting by saying so, actuated largely by political reasons, sought to prevent the adoption of that plan, and they found a way. They came to Albany. They came to this seat of up-State power, and presented a bill that practically deprived the Board of Estimate of any authority whatever by placing the authority back in the hands of the Public Service Commission. (Laughter.) And, Mr. Chairman and gentlemen, the bill provided that if a settlement was not made or arrived at by the Board of Estimate by a certain date, then the whole question went again to the Public Service Commission for settlement.

Among the distinguished proponents of that measure, when a hearing was given by Governor Whitman, was his Honor Mayor Hylan of the City of New York. (Laughter.) And the very interest that is now against the Governor's plan was in favor of stripping the Board of Estimate and Apportionment of power. (Laughter.)

Home Rule is a nebulous thing. It is an insensate sort of doctrine—possibly we did not have a good Board of Estimate at that time—(Laughter and applause)—we may not have reached the state of perfection of the present Board of Estimate, but the argument won, Mr. Chairman. Those who would willingly strip the City of power under certain circumstances must not come here and talk against the violation of Home Rule. (Applause.)

Further, the Senator from California referred to the fact that this bill gives the new Transit Commission the right to fix its own expenses and they must be paid by the City. That is correct. It is not at all different from the first Public Service Commission's law. It is just the same. Under it the City provided special revenue bonds for the conduct of the Public Service Commission. When Senator Brown came with his investigating committee to New York in 1916, he said that he thought, as far as the general expenses of the Commission were concerned, the City ought to have the right to pass upon them, and we said we thought it would be a good thing, and the law was changed to give the Board of Estimate the right to pass upon appropriations made for the Public Service Commission. But it was not intended by Senator Brown, and it certainly was not

intended by Mayor Mitchel, nor by myself, that this change in the law would be used to hamper and to obstruct and to prevent the Public Service Commission from doing its work, as was done by the present City Administration. (Applause.)

How does public regulation of transit facilities, regulation of fares, etc., work in other places? May I suggest that your Committee consult the publications of the Board of Trustees appointed by the State of Massachusetts to take over and administer the affairs of the Boston Elevated Railroad Company. These properties were taken over by the State. The city has nothing whatever to say about them. True, under the operation of that law, fares have been increased, but it is also true that the properties have been built up and preserved. The people of Boston are now getting a kind of service that was impossible before. If you want some additional criteria under the Massachusetts State Plan, when a deficit occurs in the operation of these roads which are under State control, the amount is made good to the roads by requisition upon the State Treasurer, and he in turn makes a tax levy upon the communities through which these roads pass, to make up the deficit. When you consider that it has been necessary to take extreme measures—if you call them extreme—in other places, when you consider that fares have been advanced in practically every important city in this country, I don't say it is an argument for an advance in New York fares, but I do say it is an argument for just such a study of our situation as Governor Miller has suggested, because it proves that this is not only a local question, but that it is a national problem.

I am aware, as Senator Johnson has said, that the present law in California came into existence as the result of a Constitutional amendment. But it is the operation of that idea that I would like to place before you. How has it worked? The people of this State in 1915 had a chance to adopt a Constitutional amendment giving cities like New York the right to absolutely control their transit facilities, and that Constitutional amendment with all the other amendments was disastrously defeated at the polls. It may be that if that amendment had been submitted separately it would have had a different reception. It is a fact that it went in with all the other amendments, and that may have accounted for its defeat, but the fact is, the people

did have a chance to pass upon that question. How has it worked elsewhere? I am informed that in a message to the Legislature of California in January, 1915, Governor Johnson said of this legislation, "Under the Constitutional amendment recently adopted the rate fixing of public utilities in municipalities is given to the railroad commission, and what will be done in this regard by the commission will be a substitute for what has heretofore been done by the city. Necessarily the cities will be relieved of the expense and labor entailed. The commission has that authority. It is exercising that authority." In a report issued by the California Commission, dated October 1, 1916, it says, "The commission has power to alter rates entered into by contract between a municipality and a public utility."

It seems to my lay learning that this is exactly what is suggested in this bill, as far as the power of the Transit Commission goes. Not a thing more. It goes on to say, "The utility does not lose its public nature by entering into a contract as to service. Neither does the contract preclude the commission from exercising supervision over the same." In his farewell address to the Legislature of California, when he went to the United States Senate, Governor Johnson referred in most complimentary terms to the work of the Railroad Commission. And so on, other authorities might be quoted. All I ask you to consider is this: if the operation of such a law worked satisfactorily in another State, why should it not work satisfactorily here? That is the question before the Committee, in view of the arguments that have been made against this bill.

I now want to refer to another objection, or rather a general criticism, of Governor Miller's suggestion that the City's present investment be made self-supporting. In Borough President Curran's letter to you, Senator Knight, he raises the question whether it is necessary to do this, also whether it is necessary to proceed to acquire these different railroad interests. He says, "The City of New York to-day has a borrowing capacity of Two Hundred Millions of Dollars." I would like to draw the attention of the Committee especially to that point because it has a very great bearing upon this question. The City of New York to-day has a borrowing capacity of about Two Hundred Millions of Dollars. That is the result of a tremendous increase in realty valuations, made by the Department of Taxes

and Assessments, during the last year. These large increases in realty valuations have occurred periodically about every ten years. One took place in the administration of Mayor Low, another in the administration of Mayor Gaynor, and this last one in the administration of Mayor Hylan. If experience proves anything, it proves that the City is able to make these great increases only about once in every ten years. If experience tells us anything, there will not be such another increase for a long time; and don't expect it. I accept the figures offered by Mr. Comptroller Craig in his article in a recent issue of "The Metropolis." Of that Two Hundred Millions of Dollars, Twenty-eight Millions plus is already pledged to other purposes and any effort to disturb it would have to be defeated. So what you have available is about One Hundred and Seventy-one Millions of Dollars. Then there are the new docks building at Staten Island, in which there will be invested some Thirty Millions. The City Administration believes that these docks upon completion will be self-supporting and that amount can be made available for other purposes. I want to suggest that if this Thirty Millions for docks is made available, it undoubtedly will be necessary to immediately invest it in other dock enterprises because the dock policy of the City is not going to end with the new piers under way. So that, what is available to-day—and it is a great advantage to the City to have it available—is One Hundred and Seventy-one Million Dollars. Mr. Curran and others speak as if this were a fabulous amount, and that they could proceed to buy any city railroads in sight, or that they could undertake to do almost anything they have in their minds. Well, it won't go very far, gentlemen, and I will tell you why. You will have to spend Fifty Million Dollars to finish the dual subway contracts. They are not finished. That Fifty Million Dollars, I am informed, does not take into consideration cost of real estate, and damages for interference with light and air and other claims that the citizens never hesitate to submit against the municipality. In addition to that the City has a school program that will call for about Sixty-five Millions, and according to the report of the Department of Education, that Sixty-five Million Dollars will not cure the part-time problem in our Public Schools. You can easily figure that One Hundred Fifteen to One Hundred Twenty-five Millions of that One Hundred and

Seventy-one Millions is almost mortgaged while you are looking at it. Consequently, when you consider that the City has other things to do, that it has hospitals to build, streets to repave, new highways to acquire, and many other municipal expenses that must be incurred, it is evident that even with this present satisfactory condition, the City of New York cannot commence to adopt any policy of municipal operation of public utilities, and any attempt to do so upon its present means would prove entirely futile.

But let me remind you of this, that in addition to the monies that will have to be spent immediately for the present subway system, new transit extensions and facilities will have to be provided for; according to the Transit Construction Commissioner, they cannot be provided for less than Three Hundred and Fifty Millions for construction and probably Two Hundred Millions more for equipment.

Therefore, Mr. Chairman, and gentlemen of the Committee, that is the financial proposition the City of New York has before it. In the face of these facts, for facts they are, all taken from official records, how can the City possibly undertake any plan for the acquirement of any portion of our present transit facilities, either through private sale or condemnation proceedings?

ON INVITATION OF THE
BOARD OF GOVERNORS
OF
THE LAWYERS CLUB
NEW YORK
SATURDAY, MARCH 12, 1921
ON
OUR CITY'S FINANCIAL PROBLEM

HON. MARTIN SAXE
Chairman of the Sub-Committee on City Affairs
Presiding

NOTE—The figures of the City's debt incurring capacity used in these addresses are taken from statements made by the Department of Finance. The difference in the amounts used in the Albany and New York addresses is accounted for by the fact that the Department revised its figures subsequent to the delivery of the Albany address.

HON. MARTIN SAXE:

It is my pleasure now to present to you that very distinguished gentleman, patriotic citizen and most excellent city official, Hon. WILLIAM A. PRENDERGAST.

HON. WILLIAM A. PRENDERGAST:

MR. CHAIRMAN, MR. PRESIDENT, LADIES AND GENTLEMEN:

May I extend to the Committee my very sincere thanks for this opportunity to address The Lawyers Club and its guests upon a subject in which I take a very deep interest. It is rather unusual to invite a member of the Club to deliver a stated address, and I am comforted in the thought that at least in the Lawyers Club it may be said that a prophet is not without honor even in his own country. Whether you will accept what I have to offer as the words of a prophet, I am not sure. The Chairman was quite within the facts when he stated that we might try to pierce through the darkness. Let us trust we shall succeed in doing so.

It might be interesting to you to have a glimpse of the report submitted by Mr. G. N. Bleecker, who was Comptroller of the City of New York in the year 1817. None of the Comptrollers now living had the pleasure of his acquaintance. I am sure that if he should be looking down upon us to-day, certainly upon myself—Mr. Metz may not fall within his interdiction—he would say, "Well, at least we knew how to express ourselves briefly in the times in which I lived." This report, which is in its original form, consists of just three pages of text and two pages of figures. It may also interest you to know that the entire expenditures of the City of New York at that time were \$483,000.00 per annum. Compare them with the gigantic figures to which you have just listened from Mr. Saxe, and you have an idea of how New York has grown.

But has New York changed in other respects? Mr. Bleecker complains that "it will be perceived that several heads of expense have considerably increased." How natural that sounds! It could be said by the present Comptroller of the City of New York. He goes on to say that "The Fire Department, Lamp and Watch, are most prominent, particularly the first,

which is nearly treble in amount to any former annual appropriation." Then he speaks of an effort to lessen the burden due to the tax upon residents or citizens, owing to assessments for benefit, and makes this comment: "The general interest requires that useless expenditures should be retrenched and an improved system introduced, more compatible with the common good." They were looking for an improved system even in those days. He also says, "Some mode of lessening the burden * * * more consistent with equity and right, is respectfully submitted to the wisdom and discretion of the Common Council." Apparently in those days the Comptroller had confidence in the wisdom and discretion of the Common Council. Times have changed. But here is the original form of the statement made by Mr. Comptroller Bleeker in 1817. Peace to his ashes. I congratulate him that he is not Comptroller in 1921.

Mr. Saxe has outlined for you very graphically the present problem of the City. To express that problem in a few words: How is the City going to live within the constitutional restrictions on expenditures?

Other Comptrollers apprehended the condition of affairs that obtains to-day. It has been given to the present Comptroller of the City to be called upon to handle the very serious problem of keeping the tax levy within the constitutional restriction imposed upon cities, which is two per cent. of the total realty and personality valuations of the City.

Mr. Saxe has said that it is the City's proud distinction that we have the largest budget and the largest tax rate in our history. There is something else very large that we have at the present time, and that is the largest borrowing capacity that the City has ever known; and to this question of borrowing capacity I desire to address myself first.

You have probably read that as of March 1st, this year's City borrowing capacity was very largely increased, due to the fact that the realty valuations of the City have been considerably advanced. May I say that it will not answer for any one to believe that the tremendous increase which has taken place in the last year, from something like Eight Thousand Eight Hundred and Sixteen Millions of Dollars to Ten Thousand One Hundred and Eighty-six Millions of Dollars, can be repeated in the very

near future. It has been the history of the City of Greater New York that these tremendous increases in realty valuations have taken place just about every ten years.

The first great increase took place in the administration of Mayor Low, the second in the administration of Mayor Gaynor, almost exactly ten years after, and this increase occurs in the administration of Mayor Hylan, exactly ten years after. It would indicate that it takes just about ten years of economic evolution to enable the raising of the realty valuations to anything like that which is approximated in the present figures. Furthermore, so that no one need be misled by these figures, it is also true that many of the valuations that have been established will be revised upon consideration by the Courts, and large amounts lopped from these valuations. In addition, our citizens should not forget that under the operation of the ordinance granting exemptions from taxation under the new Housing Act, even if many dwelling houses are built during the next year, there will be an exemption upon each of these houses, and this will mean that there will be very little to add to the realty valuations a year from this time, from this type of construction.

According to figures that have been prepared within the last two or three days by the office of the Comptroller of the City of New York, the constitutional debt limit on March 1st is One Hundred and Ninety-four Millions of Dollars; there are standing against that very favorable figure authorizations for public improvements which have already been made, but against which contracts have not been registered, Thirty-two Millions of Dollars. Assuming that all of these authorizations will ultimately be covered by contracts, in order to find exactly what we have available for general purposes, we must deduct the Thirty-two Millions of authorizations now existing from the One Hundred and Ninety-four Millions of constitutional borrowing capacity, and we get, in round figures, One Hundred and Sixty-two Millions of Dollars. So that is the figure with which the City has to play at the present time.

There are requests for authorizations of corporate stock (which would go against this borrowing capacity) from the Board of Education, for Sixty-three Millions of Dollars. This is an ambitious, but not too ambitious, school program of con-

struction and acquirement of sites for schools. According to the report issued by the school authorities, even if this program be carried out in its entirety, it will not at its completion solve the part-time problem in the City of New York.

So that, as far as we can reasonably see—and we, who have been Comptrollers of the City of New York—must look upon the situation that confronts the City authorities, with sympathetic eyes, there will have to be an appropriation of Sixty-three Millions of Dollars for new schools during the present year; and then there are other requirements which are being pressed upon the City authorities, from the Department of Docks for Two Million Four Hundred and Fifty Thousand, from the Department of Water Supply, Gas and Electricity for One Million Six Hundred and Fifty-eight Thousand, and from the Department of Plant and Structures for Two Million One Hundred and Ninety-four Thousand, totaling in all Six Million Three Hundred and Three Thousand.

Then there are requests from the Borough Presidents, largely for repaving, from the Park Departments, the Police Department, the Fire Department, the Health Department, from Public Welfare, heretofore called the Department of Public Charities, the Street Cleaning and other Departments—all for non-revenue producing improvements which total Twenty-three Millions of Dollars.

It need not be assumed that this entire Twenty-three Millions of Dollars must be authorized; but, looking at the figures from the standpoint of some experience, I should say that in no sense do they appear excessive. All these different forms of public improvement are necessary. The new schools and the wants of other Departments total Ninety-two Millions of Dollars. Therefore, in order to find just how far your borrowing capacity is going to go, you must deduct the Ninety-two Millions of Dollars from the One Hundred and Sixty-two Millions of Dollars you have left, and that would leave approximately Seventy Millions of Dollars.

There is something else that the City has to do, and that is to extend the transit system of the City. According to the Transit Construction Commissioner, Mr. Delaney, to complete the present transit program—and when I say, “complete the

present transit program,” I refer only to the completion of the contracts known as Three and Four, or the dual subway contracts—there will be required at least Fifty Millions of Dollars, and the figures may run to Sixty Millions of Dollars. Consequently, applying that Fifty Millions of Dollars, the minimum figure, against the Seventy Millions of borrowing capacity left, you have only Twenty Millions remaining, hardly enough for a safety valve, as far as the requirements of a great city like ours are concerned.

When we get to that point, let me call your attention to this, even if I must digress from the stated subject of discussion a little bit. It has been proposed and has been, I assume, seriously proposed, by several members of the present City Administration, that because the City had this large borrowing capacity, the figures of which I have given you, the City was, therefore, in a position to undertake the acquirement of some of our present transit facilities. How utterly futile it is to consider such a proposition, in the face of these authentic figures that come directly from the Department of Finance! I might say they are Administration figures. Therefore, the possibility of the City availing itself in any way of its present borrowing capacity to acquire any of our transit facilities, no matter how easy the terms might be made, is entirely out of the question.

That brings us to another very important subject, and it constitutes one of the City's financial problems. The City has invested in its new subways about Two Hundred and Twenty-five Millions of Dollars. In the first subway, from the Bronx to Atlantic Avenue, Brooklyn, it has invested up to this time probably about Fifty-seven Millions of Dollars nearly all of which has been exempted from the debt limit, as it is self-sustaining. So far as that Fifty-seven Millions is concerned, we have used it again in the construction of new subways.

If the City is to increase its subway or transit facilities, it must have the financial ability to do so. The only way in which this can be done is to place our present investment in subways on a basis that will be self-supporting, in that way releasing the present investment from the debt limit and making it available for credit for new subway facilities, and the thing cannot be done in any other way. Even if Two Hundred and Twenty-five

Millions of Dollars were made available, according to the estimates of the present Transit Commissioner, it would require probably Three Hundred and Fifty Millions of Dollars to make what would be logical extensions to our present subway facilities. This would represent only construction and the acquirement of real estate; it would not represent equipment; the latter would probably cost, according to the same estimate, Two Hundred Millions more.

Verily, the City has a financial problem, and the solution of that problem should be approached along the line of least resistance. It should be approached in a way that would indicate some hope of solving it, and the solution should not rest upon illusory, untenable and futile suggestions such as putting buses on the streets, which would not commence to solve the problem.

The transit question is the great financial problem before the City. The figures I have given are only an outline, but they are figures that describe the situation in its true form. These figures are not quoted from sources friendly to the proposed transit legislation, but they come entirely from sources that at least up to this time have not displayed any friendship towards that proposition.

Another thing: one reason why the City had to enlist private capital in building the present subways is because it did not have the necessary credit itself. Even if it undertakes to build a new system, it must, as the figures indicate, have recourse to private capital again.

If private capital is to be enlisted, the next time it will only be upon some basis that gives it every assurance of protection and safety and does not leave it at the mercy of great economic changes and industrial unrest such as have been brought about by the Great War in Europe. These are some of the things that it seems to me the citizens of New York ought to be thinking of, particularly at this time.

You have been told that this year's budget has reached the figure of Three Hundred and Forty-five Millions of Dollars. That is not all. This great budget did not provide for at least Twenty-two Millions for education, if the schools are to continue upon their present basis—more on that point a little later.

I am not one of those who has very much fault to find with the present Administration for this high budget. To find fault with it would be to find fault with one's self. All our personal expenses have increased. We know that there is no household conducted upon the same basis as it was six years ago or five years ago or four years ago. It stands to reason that the City Government cannot be conducted upon the same basis of expenditure. A very great deal of the increase in expenditure has been forced upon the City. That it was bound to be forced upon the City those in office some years ago understood, because with each succeeding year the pressure for better compensation for City employees, and school teachers, the pressure of greater prices for supplies, were evident. The fact that budgets have increased simply bears out the prognostication that was made four or five years ago. If any mistake has been made, it was this, in candidates for City positions promising to reduce the budget, when in the face of advancing costs there was no possibility of doing so. As far as the increases in the Department of Education are concerned, they have been levied, as they usually are, by the Legislature, and the City must assume the bills; but that is an obligation—if not a penalty—resting upon the City, according to our present form of government.

When Mr. Van Wyck was Mayor, during the first four years of the Greater City, the budgets for those four years amounted to only Three Hundred and Sixty-five Millions of Dollars.

During the mayoralty of the late John Purroy Mitchel, the budgets advanced for those four years to Eight Hundred and Fifteen Millions of Dollars. And every mayoralty period represents a progressive increase.

For instance, during Mr. Van Wyck's term of four years, the per capita expenditure of the City for maintenance purposes, including debt service, was \$26.84.

In the second period, which represented the two years that Mayor Low was in office, and Mayor McClellan's first term of two years, the per capita was \$27.24.

In the third period, that during which Mayor McClellan was Mayor for four years, and Mr. Metz was Comptroller, the per capita was \$31.23.

During the fourth period, when Mayor Gaynor was in office, and I had the honor to be Comptroller, the per capita went up to \$35.55.

In the fifth period, when Mr. Mitchel was Mayor, the per capita was \$36.83.

In the sixth period, the Mayoralty of Mr. Hylan, the per capita is \$49.34.

So you will notice the constant increase in expenditure. I think it can be said that every one of those administrations made some effort in some way to reduce expenses, but the figures prove that it was not possible to keep the expenditures below what had become a normal minimum.

What are the possibilities of improvement? Can salaries of employees be reduced? Not much, if at all. Can the salaries of school teachers be reduced? No. I can answer that question positively. The school teachers will look after that, and the Legislature will put its final and determining word upon the debate if any takes place. There is no hope to be looked for in those directions. There may be some slight reduction in the cost of supplies in the next year. At the present time it is not a very marked reduction.

Therefore, what are the possibilities? One is that more of the City's activities might be put upon a self-sustaining basis. I have already spoken to you regarding the elimination of the present indebtedness for transit from the debt limit. If that were done it would mean a reduction of about Ten Millions of Dollars in the annual budget, and Ten Millions of Dollars is not to be despised. We have our county offices from which the receipts in 1920 were about Two Millions of Dollars, and the expenditures for those departments Ten Millions of Dollars. Some change could be made there. Possibly in regard to the Staten Island ferries, which are now claimed to be upon a self-supporting basis, according to the latest returns, some change might be made. All in all, if we considered seriously the question of trying to find more revenue, not in the form of new taxes, but revenue derived from service, we might meet with some success. Take our bridges. When Mayor Gaynor abolished the tolls upon the bridges it was regarded as a very popular act and one against which there was not much dissent.

At the same time, while it is all very nice to argue that our bridges are highways and should be free, there is such a thing as the City subjecting itself to too much expense for the sake of making facilities entirely free. For instance, think of the very great expense of keeping the roadways of these bridges in repair. They are used by wagons of all kinds, and by pleasure vehicles of all kinds; but the general public through the budget has to pay for the maintenance of those roads, and I think it is a serious question whether that is a sound municipal policy. We spend millions of dollars every year repaving our streets and roads, and still these great heavy high-powered motor cars—I do not refer to pleasure cars but to motor trucks—are permitted to use the streets at a nominal tax. They undoubtedly subject the pavement to tremendous pressure and damage, and the public is paying the entire cost.

When you get to the point where your budget is so great that the tax levy becomes a disquieting element, you must look around and try to find some way of relieving your difficulties; the difficulties are much more pronounced than we really imagine at first sight.

For this reason, the City did not include in the budget this year the entire amount necessary to carry the Department of Education, because the Comptroller held and so advised the Board of Estimate and Apportionment, that if the City did include the full amount required for that Department, the tax levy would exceed the constitutional limitation of two per cent. The figures stand for themselves. They prove whether the tax levy would be within or without the two per cent., but that is only for this year.

What are we facing next year? A budget of the same size. Assuming that there are no increases of any kind in the present expenditures of the City and that we adopt a budget for 1922 on the same basis as for 1921, according to authorities in the Department of Finance, we shall have to exceed the two per cent. limitation.

The City government is face to face with the proposition that there has got to be some means found for reducing the budget, or the only other recourse is to ask for a change in the constitution, which will raise the limit of tax levy to more than

two per cent. Another suggestion is to take the expenditures for education entirely out of the City budget, and let them be considered solely as a thing apart, made directly under the government of the State. But if that is done, it will mean that the control of the schools of the City of New York will go absolutely out of the hands of the government and the people of the City of New York. As a believer in the Home Rule principle, within reasonable and proper limitations, I should deprecate any such outcome in respect to education, because our school system would become entirely a State function or operation.

But we have reached the point now where there is no use in simply philosophizing over the situation or in dogmatizing about it. We have reached the point where something must be done, and my mind goes back to another theory of reconstruction of the City government with a possible or probable reduction in expenditure. I have thought that as a City we were organized upon a very expensive basis, and that the very method of our organization, in itself, led us into extravagance that might otherwise be avoided.

I am in favor of a strongly centralized City government. I believe that a strongly centralized City government could operate more economically than a diffused government such as we have at the present time. I appreciate that the idea of Borough government is very popular, and that it is pleasing to the people; but they have been paying for their present kind of government, and now have arrived at the point where they must decide upon some means of reducing expenditures. We have come to the stage where we must decide upon something different, or secure some kind of constitutional relief. I think the latter will be very hard to secure, because the disposition of the people to change the constitution, especially upon so important a subject as limitation of expenditure, will probably be adverse. The constitutional restriction of two per cent. upon City expenses, and the constitutional restriction of ten per cent. on debt incurring power were inserted in the constitution to promote the cause of economy, and to increase these percentages means simply that temptation to extravagance will be invited.

I should very much prefer to see a reconstitution of the City government with a view to minimizing its expenses, than

a breaking down of what have been very effectual safeguards against extravagance in government.

This is the City's financial problem, and it is a tremendous problem. It calls for action of some kind.

Regarding the question of the deficit in the School Department for this year, bills have been introduced at Albany for the purpose of relieving that situation. One bill is designed to do this, to spread that deficit over five years and liquidate it out of succeeding budgets; quite an improper suggestion, because other administrations would be called upon to assume expenditures that should have been settled this year.

My own belief is that the Legislature should provide through a special tax this year to be added to our regular taxes, for the collection of the sum required; so that this administration will discharge *during its term* all the obligations that are incurred *during its term*, and not leave them to other people to bother with or be harried by.

I have said this deficit in the school appropriation was about Twenty-two Million Dollars. I am very glad to learn that in the account for the liquidation of Tax Notes, there will be a surplus of Two Million Five Hundred Thousand Dollars that has been discovered, and in the account for the liquidation of Special Revenue Bonds for this year, there will be a surplus of about Seven Hundred and Fifty Thousand Dollars more; so there is about Three Million Two Hundred and Fifty Thousand Dollars that has been found. If other departments can reveal shrinkages in their expenses, the liquidation of the school deficit will not be quite so serious a matter; but in any event it will represent probably Fifteen Millions of Dollars that must be taken care of.

I do hope that there will be developed in this City a body of public opinion that will insist upon the solution of these financial problems; that they shall not be left to succeeding administrations to settle; because I can assure you, as Mr. Metz can, that the longer you leave them, the more complications arise and the more difficult of solution they become.

PRESS OF H. K. DREWER & CO.
55 LIBERTY STREET, NEW YORK

END OF
TITLE